

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

547M0547

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1132 - 02/06/2006

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Hanks, Boomgarden, Brunner, Buckingham, Davis, Garnos, Glenski, Howie, Kraus, Krebs, McCoy, Novstrup, Rausch, Rhoden, Turbiville, Van Etten, and Weems and Senators Adelstein, Abdallah, Broderick, Koskan, McCracken, and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to create immunity for reporting prenatal alcohol or
2 substance abuse.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 34-23B be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any physician, physician's assistant, nurse, nurse practitioner, nurse midwife, counselor,
7 social worker, licensed or registered child welfare provider, employee or volunteer of a domestic
8 abuse center, chemical dependency counselor, or safety sensitive position as defined in
9 subdivision 23-3-64(2) who provides services to a pregnant woman may make a referral to a
10 prevention or treatment program accredited pursuant to chapter 34-20A if the provider has
11 information that a pregnant woman is engaging in the abusive use of alcohol or use of any
12 controlled drug or substance not lawfully prescribed by a practitioner as authorized by chapter
13 22-42 or 34-20B. Any such provider, who, in good faith, makes a referral to a prevention or



1 treatment program accredited pursuant to chapter 34-20A of a pregnant woman engaging in
2 abusive use of alcohol, abusive use of a lawfully prescribed controlled substance, or use of any
3 controlled drug or substance not lawfully prescribed by a practitioner as authorized by chapter
4 22-42 or 34-20B, is immune from any liability, civil or criminal, that might otherwise be
5 incurred or imposed, and has the same immunity with respect to participation in any judicial
6 proceeding resulting from the referral. This immunity also extends to any public official
7 involved in the investigation of such conduct or to any person described in this section who in
8 good faith cooperates with any public official in an investigation. Any referral pursuant to this
9 section is permissive and nothing in this section requires the making of any referral.